CHAPTER I

STATE LAWS CANNOT OBSTRUCT NATIONAL USES OF LANDS OF THE UNITED STATES

1. Relative powers of State and Federal Governments.—"In America, the powers of sovereignty are divided between the Government of the Union, and those of the States. They are each sovereign, with respect to the objects committed to it, and neither is sovereign, with respect to the objects committeed to the other." [1] In these simple, understandable words, Chief Justice Marshall laid down the principle, now universally accepted, that both the State and Federal Governments are sovereign within their respective spheres and that neither can, without the consent of the other, exercise any power that would restrain or obstruct the other in the free exercise of its own exclusive prerogatives under the Constitution. The sovereignty of neither government is absolute and unlimited.

Prior to the adoption of the Federal Constitution the respective States possessed all of the attributes of complete sovereignty, but by means of that instrument they entered into a compact with each other whereby they relinquished certain of their powers to the general government.[2] The sovereignty of the general government is not inherent and complete because it is derived from the States and is limited to the exercise of those functions which are necessary to accomplish the enumerated powers delegated to it by the States.[3]

2. Implied powers of Congress.—Among the powers delegated to Congress is the right to make all laws which are necessary and proper for carrying into effect the powers expressly delegated.[4] The words "necessary and proper" as thus used have been interpreted as including all means which are conducive and adapted to the end to be accomplished and which in the judgment of Congress would most advantageously effect that end. Commenting upon the extent of this incidental power of Congress, which is the foundation of the doctrine of its implied powers, Chief Justice Marshall said, "Let the end be legitimate, let it be within the scope of the constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited,

[1] *McCulloch* v. *Maryland*, 4 Wheat. 315, 409.
[2] *Lowenstein* v. *Evans*, 69 Fed. 908, 911.
[3] *Hodges* v. *United States*, 203 U. S. 1, 27 S. Ct. 435.
[4] U. S. Constitution, Art. 1, Sec. 8, Cl. 18.

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